

Postal Regulatory Commission

§ 3010.26

Service elects to exclude a rate incentive from a percentage change in rates calculation, the rate incentive shall be treated in the same manner as a rate under a negotiated service agreement (as described in § 3010.24).

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can be easily translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior); and

(iii) The rate incentive is a rate of general applicability.

§ 3010.24 Treatment of volume associated with negotiated service agreements.

(a) Mail volumes sent at rates under negotiated service agreements are to be included in the calculation of percentage change in rates under § 3010.23 as though they paid the appropriate rates of general applicability. Where it is impractical to identify the rates of general applicability (*e.g.*, because unique rate categories are created for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement shall be excluded from the calculation of percentage change in rates.

(b) The Postal Service shall identify and explain all assumptions it makes with respect to the treatment of negotiated service agreements in the calculation of the percentage change in rates and provide the rationale for its assumptions.

EFFECTIVE DATE NOTE: At 79 FR 33834, June 12, 2014, § 3010.24 was revised, effective July 14, 2014. For the convenience of the user, the revised text is set forth as follows:

§ 3010.24 Treatment of volume associated with negotiated service agreements and rate incentives that are not rates of general applicability.

(a) Mail volumes sent at rates under a negotiated service agreement or a rate incentive that is not a rate of general applicability are to be included in the calculation of percentage change in rates under § 3010.23 as though they paid the appropriate rates of general applicability. Where it is impractical to identify the rates of general applicability (*e.g.*, because unique rate categories are cre-

ated for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement or the rate incentive that is not a rate of general applicability shall be excluded from the calculation of percentage change in rates.

(b) The Postal Service shall identify and explain all assumptions it makes with respect to the treatment of negotiated service agreements and rate incentives that are not rates of general applicability in the calculation of the percentage change in rates and provide the rationale for its assumptions.

§ 3010.25 Limitation on application of unused rate adjustment authority.

Unused rate adjustment authority may only be applied after applying the annual limitation calculated pursuant to § 3010.21 or § 3010.22.

§ 3010.26 Calculation of unused rate adjustment authority.

(a) Unused rate adjustment authority accrues during the entire period between notices of Type 1-A and Type 1-B rate adjustments. When notices of Type 1-A or Type 1-B rate adjustments are filed 12 months apart or less, the unused rate adjustment authority is the annual unused rate adjustment authority calculated under paragraph (b) of this section. When notices of Type 1-A or Type 1-B rate adjustments are filed more than 12 months apart, unused rate adjustment authority is the sum of the annual unused rate adjustment calculated under paragraph (b) of this section plus the interim unused rate adjustment authority calculated under paragraph (c)(2) of this section, less any interim unused rate adjustment authority used in accordance with paragraph (d) of this section.

(b) When notices of Type 1-A or Type 1-B rate adjustments are filed 12 months apart or less, annual unused rate adjustment authority will be calculated. Annual unused rate adjustment authority for a class is equal to the difference between the annual limitation calculated pursuant to §§ 3010.21 or 3010.22 and the actual percentage change in rates for the class.

(c)(1) When notices of Type 1-A or Type 1-B rate adjustments are filed more than 12 months apart, annual unused rate adjustment authority will be

§ 3010.27

calculated for the 12-month period ending on the date on which the second notice is filed and interim unused rate adjustment authority will be calculated for the period beginning on the date the first notice is filed and ending on the day before the date that is 12 months before the second notice is filed.

(2) Interim unused rate adjustment authority is equal to the Base Average applicable to the second notice of rate adjustment (as developed pursuant to §3010.21(b)) divided by the Recent Average utilized in the first notice of rate adjustment (as developed pursuant to §3010.21(b)) and subtracting 1 from the quotient. The result is expressed as a percentage.

(d) Interim unused rate adjustment authority may be used to make a rate adjustment pursuant to the notice of rate adjustment that led to its calculation. If interim unused rate adjustment authority is used to make such a rate adjustment, the interim unused rate adjustment authority generated pursuant to the notice shall first be added to the schedule of unused rate adjustment authority devised and maintained under paragraph (f) of this section as the most recent entry. Then, any interim unused rate adjustment authority used in accordance with this paragraph shall be subtracted from the existing unused rate adjustment authority using a first-in, first-out (FIFO) method, beginning 5 years before the instant notice.

(e) Unused rate adjustment authority lapses 5 years after the date of filing of the notice of rate adjustment leading to its calculation.

(f) Upon the establishment of unused rate adjustment authority in any class, the Postal Service shall devise and maintain a schedule that tracks the establishment and subsequent use of unused rate adjustment authority for that class.

EFFECTIVE DATE NOTE: At 79 FR 33834, June 12, 2014, §3010.26 was amended by revising the section heading and paragraphs (b) and (e), effective July 14, 2014. For the convenience of the user, the revised text is set forth as follows:

39 CFR Ch. III (7–1–14 Edition)

§ 3010.26 Calculation of unused rate adjustment authority for Type 1-A and Type 1-B rate adjustments.

* * * * *

(b) When notices of Type 1-A or Type 1-B rate adjustments are filed 12 months apart or less, annual unused rate adjustment authority will be calculated. Annual unused rate adjustment authority for a class is equal to the difference between the annual limitation calculated pursuant to §3010.21 or §3010.22 and the percentage change in rates for the class calculated pursuant to §3010.23(b)(1).

* * * * *

(e) Unused rate adjustment authority generated under this section lapses 5 years after the date of filing of the notice of rate adjustment leading to its calculation.

* * * * *

§ 3010.27 Application of unused rate adjustment authority.

When the percentage change in rates for a class is greater than the applicable annual limitation, then the difference between the percentage change in rates for the class and the annual limitation shall be subtracted from the existing unused rate adjustment authority for the class, using a first-in, first-out (FIFO) method, beginning 5 years before the instant notice.

EFFECTIVE DATE NOTE: At 79 FR 33834, June 12, 2014, §3010.27 was redesignated as §3010.28 and a new §3010.27 was added, effective July 14, 2014. For the convenience of the user, the added text is set forth as follows:

§ 3010.27 Calculation of unused rate adjustment authority for Type 1-C rate adjustments.

(a) For a notice of Type 1-C rate adjustment, unused rate adjustment authority for a class is calculated in two steps. First, the difference between the annual limitation calculated pursuant to §3010.21 or §3010.22 for the most recent notice of Type 1-A or Type 1-B rate adjustment and the percentage change in rates for the class calculated pursuant to §3010.23(b)(2) is calculated. Second, the unused rate adjustment authority generated in the most recent Type 1-A or Type 1-B rate adjustment is subtracted from that result.

(b) Unused rate adjustment authority generated under paragraph (a) of this section lapses 5 years after the date of filing of the most recent notice of Type 1-A or Type 1-B rate adjustment.